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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/884,680	06/27/97	YUFA	A

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MM21/0506

EXAMINER

PHAM, H

ART UNIT

PAPER NUMBER

2877

DATE MAILED:

05/06/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**08/884,680**

Applicant(s)  
**Aleksandr L. Yufa**

Examiner  
**Hoa Q. Pham**

Group Art Unit  
**2877**



☒ Responsive to communication(s) filed on Nov 6, 1998

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 18-31 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 18-31 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Drawings*

1. The drawings filed on 11/6/98 have been approved by the draftsman.

### *Specification*

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of 37 CFR 1.71(a)-(c):

(a) The specification must include a written description of the invention or discovery and of the manner and process of making and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make and use the same.

(b) The specification must set forth the precise invention for which a patent is solicited, in such manner as to distinguish it from other inventions and from what is old. It must describe completely a specific embodiment of the process, machine, manufacture, composition of matter or improvement invented, and must explain the mode of operation or principle whenever applicable. The best mode contemplated by the inventor of carrying out his invention must be set forth.

© In the case of an improvement, the specification must particularly point out the part or parts of the process, machine, manufacture, or composition of matter to which the improvement relates, and the description should be confined to the specific improvement and to such parts as necessarily cooperate with it or as may be necessary to a complete understanding or description of it.

The specification is objected to under 37 CFR 1.71 because the specification, as originally filed, does not provide support for the invention as now claimed.

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a. The applicant's amendment to page 9 and claims 26 and 30 in which the limitation **"terminal means includes at least one of floppy disk means and an external interface means"** is not disclosed in the original disclosure.

b. The applicant's amendment to page 11 in which the limitations **"the quantity of the strobe pulses within ... the identical size particles"** and **"the control system 13 ..., velocity rate, etc."** introduce new matter into the disclosure.

c. The applicant's amendment to claims 28 and 31 in which the limitation **"said multiplex bus is divided on a data bus and an address bus, and a digital data exchange provided by said data bus and said address bus"** introduce new matter into the disclosure.

3. Claims 26, 28, 30 and 31 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

***Claim Rejections - 35 USC § 112***

4. Claims 18, 20 and 23 are is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Claims 18 and 23 line 1, "a particles" should be changed to --particles--.

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- b. Claim 18 line 4, the phrase "inside which said light beam along a light beam axis" is not understood.
- c. Claim 18 line 11 recites the limitation "detected signals" . There is insufficient antecedent basis for this limitation in the claim.
- d. Claim 20 is vague and indefinite, what does applicant means by "strobe pulse package"?

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

6. Claims 18-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Staff et al (5,619,333).

Staff et al discloses a flow contamination monitor which comprises a light detecting system (4) for detecting the light from the light source (451) includes a chamber inside which a particle flow (423-427) intersects a light beam in an area of a light detection means, placed on a light beam axis, and wherein an intersection of the light beam and the particle flow is occurred on

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the light beam axis between the light beam source (451) and the light detection means, detecting the light beam, which is obstructed by a different sizes of the particles of particle flow, has a different intensity of the light beam on the light detection means or a different durations of the intensity; detecting the different durations of the intensity by the detection means which transfers a detected signals for a detected signal processing to a processing system (figures 6-8).

Regarding claim 19, see claim 5 of Staff et al for sensing duration and extent of obscuration.

Regarding claims 23, 24 and 27; the claims define that the analog-digital system includes an amplifying means and pulse forming means; thus the amplifying means (501,505) and pulse forming means (506) (figure 7) of Staff et al are read on these limitations.

Regarding claim 25, it is inherent that the multiplexed bus connected to a terminal means and microprocessor system, see figures 7 and 8 of Staff et al for microprocessor input, microprocessor interface and particle monitor.

Regarding claim 26, Staff et al teaches that the terminal means is a display (486) and printer (489).

Regarding claim 28; this claim raise new matter into the disclosure, therefore it may not be considered. However, if it is considered, the limitation in claim 28 is well known in a computer system.

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***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamoto et al (5,325,169) in view of Schmitz et al (5,610,712).

Nakamoto et al (of record) discloses an apparatus for analyzing cells in urine which has all the features of the present invention except for a fiber connecting means for transmitting light from a light source to a detection system; however, such a feature is known in the art, for example as taught by Schmitz et al (of record). Schmitz et al, from the same field of endeavor, discloses a particle size method in which the monomode optical fiber cable (36) for transmitting light from a light source (35) to a detection system (column 5 lines 4-12). Those of ordinary skill in the art at the time the invention was made to include in Nakamoto et al an optical fiber as taught by Schmitz et al for transmitting light from the light source. The rationale for this modification would have arisen from the fact that using such cable would prevent light lost from the light source and prevent stray light that would enter the system, thus increase the signal to noise ratio and an accuracy of the measurement is obtained.

Regarding claim 30, the printing means or displaying means is inherent in Nakamoto et al.

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Regarding claim 31; this claim raise new matter into the disclosure, therefore it may not be considered. However, if it is considered, the limitation in claim 28 is well known in a computer system.

***Response to Arguments***

9. Applicant's arguments filed 11/6/98 have been fully considered but they are not persuasive.

a. Applicant's remarks argues that Staff et al discloses a window assembly, lens assembly, etc..., and all of which are missing in the present invention. However, all of the limitations in the present claims were read on the teachings of Staff et al as mentioned above. Claims must be examined on the basic of what they say, absent limitations may not be assumed to be present.

b. Schmitz et al teaches only a single optical fiber is used. Again all the limitations in claims 29-31 are read on the combination of Nakamoto et al and Schmitz et al.

c. The arguments on the references Tatsuno, Chandler et al are moot because they are no longer applied.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**



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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Hoa Pham whose telephone number is (703) 308-4808. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7722 or 7724.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Pham/hp

May 05, 1999

  
Hoa Q. Pham  
Primary Examiner